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SENATE BILL 1154

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

FERNANDO R. MACIAS

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO PUBLIC DEFENDERS; ESTABLISHING A MINIMUM FUNDING
LEVEL FOR THE PUBLIC DEFENDER DEPARTMENT; INCREASING THE AMOUNT
OF REIMBURSEMENT TO COUNSEL FOR SERVICES PROVIDED TO INDIGENT
CLIENTS; AMENDING SECTIONS OF THE NMSA 1978; MAKING AN
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-15-5 NMSA 1978 (being Laws 1978,
Chapter 14, Section 1) is amended to read:

"31-15-5. PUBLIC DEFENDER DEPARTMENT-- CREATION--
ADMINISTRATION-- FINANCE-- MINIMUM FUNDING LEVEL. --

A. There is created the "public defender
department". The headquarters of the department shall be
maintained at Santa Fe. The chief shall be the administrative
head of the department. The department is administratively

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1 attached to the [~~criminal justice~~] corrections department.

2 B. All salaries and other expenses of the department
3 shall be paid by warrants of the secretary of finance and
4 administration, supported by vouchers signed by the chief or his
5 authorized representative and in accordance with budgets
6 approved by the state budget division of the department of
7 finance and administration.

8 C. Beginning with fiscal year 1998, the general fund
9 appropriation to the public defender department shall be not
10 less than seventy-five percent of the sum of general fund
11 appropriations to:

12 (1) all district attorney offices in the state;
13 and
14 (2) the criminal appeals division of the office
15 of the attorney general. "

16 Section 2. Section 31-15-9 NMSA 1978 (being Laws 1973,
17 Chapter 156, Section 9) is amended to read:

18 "31-15-9. DUTY OF CHIEF PUBLIC DEFENDER TO ESTABLISH
19 DISTRICT PUBLIC DEFENDER OFFICE--APPOINTMENT OF DISTRICT PUBLIC
20 DEFENDER--MINIMUM FUNDING LEVEL. --

21 A. The chief shall designate one or more public
22 defender districts having boundaries coextensive with the
23 boundaries of one or more judicial districts of this state. The
24 chief shall consider the demand for legal services provided
25 under the Public Defender Act, criminal case load statistics,

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1 population, geographical characteristics and any other relevant
2 factor in the designation of public defender districts.

3 B. The chief may review the designation of districts
4 at any time. The review shall be based on the same factors
5 enumerated in Subsection A of this section. On the basis of the
6 review, the chief may change the designation of any district so
7 long as the new designation has boundaries coextensive with the
8 boundaries of one or more judicial districts of this state.

9 C. The chief shall appoint a district public
10 defender in each district. The district public defender shall
11 administer the operation of the district and shall serve at the
12 pleasure of the chief. Each district public defender shall be
13 an attorney licensed to practice law in the highest courts of
14 this state and a resident of this state.

15 D. Beginning with fiscal year 1998, the amount of
16 general fund money distributed to public defender districts
17 shall be not less than seventy-five percent of the amount of
18 general fund money appropriated to district attorney offices
19 located in judicial districts served by the public defender
20 districts."

21 Section 3. Section 31-16-8 NMSA 1978 (being Laws 1968,
22 Chapter 69, Section 65) is amended to read:

23 "31-16-8. PAYMENT OF COSTS, EXPENSES AND ATTORNEY FEES. --

24 A. [~~Payments~~] Payment of costs, expenses and
25 attorney fees under the Indigent Defense Act shall be made from:

1 (1) funds appropriated to the supreme court
2 with respect to habeas corpus matters initiated in that court;
3 and

4 (2) funds appropriated to the district court
5 with respect to all stages of proceedings initiated in the
6 district court.

7 B. The court assigning counsel under the Indigent
8 Defense Act shall pay costs, including the costs of transcripts
9 where appropriate, shall reimburse counsel for direct expenses
10 the court determines to have been properly incurred by him and
11 shall pay to counsel fees:

12 (1) for services in magistrate, [courts]
13 metropolitan and district courts where the proceedings are
14 terminated prior to trial in the district court, a sum fixed by
15 the court at not less than one dollar (\$1.00) [nor] or more than
16 [~~three hundred dollars (\$300)~~] eight hundred dollars (\$800);

17 (2) for services in magistrate, [courts]
18 metropolitan and district courts which include trial in the
19 district court and, where appropriate, filing notice of appeal,
20 a sum fixed by the court at not less than one dollar (\$1.00)
21 [nor] or more than [~~four hundred dollars (\$400)~~] two thousand
22 five hundred dollars (\$2,500);

23 (3) for services in postconviction remedy
24 proceedings in the district court, a sum fixed by the court at
25 not less than one dollar (\$1.00) [nor] or more than [~~one hundred~~

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1 ~~fifty dollars (\$150)~~ five hundred dollars (\$500);

2 (4) for services in prosecuting any appeal or
3 review in the court of appeals or the supreme court, a sum fixed
4 by the court at not less than one dollar (\$1.00) [~~not~~] or more
5 than [~~five hundred dollars (\$500)~~] one thousand two hundred
6 dollars (\$1,200);

7 (5) for services in habeas corpus proceedings
8 in the supreme court, a sum fixed by the court at not less than
9 one dollar (\$1.00) [~~not~~] or more than [~~one hundred fifty dollars~~
10 ~~(\$150)~~] six hundred dollars (\$600); and

11 (6) for services in any case involving a
12 capital offense, a sum fixed by the court. "

13 Section 4. EFFECTIVE DATE. -- The effective date of the
14 provisions of this act is July 1, 1997.